

HOUSE BILL 3332
By Bowers

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 13, Part 5, relative to sexual offenses involving certain students.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-13-503, is amended by deleting subsection (a) and substituting instead the following:

(a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act;

(2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent;

(3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless;

(4) The sexual penetration is accomplished by fraud; or

(5) The victim is a K-12 student and the defendant is a school employee or a person having authority and control over the victim, including, but not limited to, teachers, administrators, volunteers or vendors. This subdivision is applicable regardless of the age of the victim or the location where the offense occurs.

SECTION 2. Tennessee Code Annotated, Title 39, Chapter 13, Part 5, is amended by adding the following new section:

Section 39-13-5__.

(a) A person commits the offense of facilitating the rape of a student who has knowledge that a violation of § 39-13-503(a)(5) has occurred and fails to report the offense to the proper law enforcement authority.

(b) Facilitating the rape of a student is a Class D felony.

SECTION 3. Tennessee Code Annotated, Section 39-13-504, is amended by deleting subsection (a) and substituting instead the following:

(a) Aggravated sexual battery is unlawful sexual contact with a victim by the defendant or the defendant by a victim accompanied by any of the following circumstances:

(1) Force or coercion is used to accomplish the act and the defendant is armed with a weapon or any article used or fashioned in a manner to lead the victim reasonably to believe it to be a weapon;

(2) The defendant causes bodily injury to the victim;

(3) The defendant is aided or abetted by one (1) or more other persons;

and

(A) Force or coercion is used to accomplish the act; or

(B) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless;

(4) The victim is less than thirteen (13) years of age; or

(5) The defendant is an employee or volunteer in a K-12 institution and fondles, touches, molests or otherwise batters a K-12 student for the purpose of sexual gratification. This subdivision shall apply regardless of the age of the student.

SECTION 4. This act shall take effect July 1, 2004, the public welfare requiring it.